

January 11, 2001

The Honorable Albert Gore, Jr.
President of the Senate
Washington, DC 20510

Dear Mr. President:

Enclosed for consideration of the Congress is proposed legislation to implement the Energy Employees Occupational Illness Compensation Program Act of 2000.

Under the Atomic Energy Act of 1954 (AEA) and the Occupational Safety and Health Act of 1970, the Department of Energy (DOE) is responsible for regulatory oversight of the health and safety of workers at DOE facilities covered by the AEA. These workers, most of whom were employees of private contractors, faithfully served the Nation during the Cold War, and in doing so, faced risks to their health. In many instances, state programs do not adequately address the needs of these workers when they incur certain occupational illnesses. Congress began to address these issues with the passage of the Energy Employees Occupational Illness Compensation Program Act of 2000. A number of issues remained, however, including determination of the roles the various responsible agencies would play in administering the program.

President Clinton, by Executive Order 13179 (December 7, 2000), designated the Department of Labor (DOL) as the lead agency for the new compensation program. He also directed that an interagency working group, comprised of representatives of DOL, DOE, the Department of Health and Human Services (HHS), the Department of Justice, and the Office of Management and Budget (OMB), develop a legislative proposal to ensure the fairness and efficiency of the program. The enclosed proposal is the result of that effort and addresses the issues left open in the initial legislation. Our two Departments, along with HHS, will be primarily responsible for implementing the Act.

The bill has two titles. Title I contains revisions and clarification to the compensation program as enacted. Under our legislation, a covered worker can choose to receive wage-loss compensation, the traditional workers' compensation remedy, as an alternative to the \$150,000 lump sum payment. Current legislation allows only for a lump sum option. Both alternatives would pay medical expenses. Other changes in Title I are necessary to effectively administer the program. These include specifying agency responsibilities and providing for administrative and/or judicial review of eligibility and other determinations made in implementing this program. Title II contains various technical and conforming amendments.

It is important to note that Section 3613(a) of the National Defense Authorization Act for Fiscal Year 2000 directs the President to submit legislation to Congress to implement the Energy Employees Occupational Illness Compensation Program. Section 3613(a) is invalid under the Recommendations Clause of the U.S. Constitution, which provides that the President "shall from

time to time . . . recommend to [Congress] . . . such Measures as he shall judge necessary and expedient." U.S. Const. Art. II, § 3. Nevertheless, on his own accord, the President issued Executive Order 13179 establishing an Interagency Working Group and directing that Group to "develop a legislative proposal" to create a compensation program. We wish to clarify that we are transmitting this draft proposal in response to the Executive Order and not to fulfill a legal obligation imposed by Section 3613.

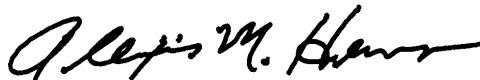
The Omnibus Budget Reconciliation Act requires that all revenue and direct spending legislation meet a pay-as-you-go (PAYGO) requirement. Specifically, no such bill should result in net budget costs; if it does, it could contribute to a sequester if the costs are not fully offset. The attached proposal affects direct spending, therefore, it is subject to the PAYGO requirement. The PAYGO effect of this bill is currently estimated to be an increase in direct spending of \$690 million from FYs 2001- 2005, which is attributable to the changes it makes to the Radiation Exposure Compensation Act.

We look forward to working with Congress toward the enactment of this legislation. OMB advises that there is no objection to the presentation of this legislation to the Congress and that its enactment would be in accord with the program of the President.

Yours sincerely,



Bill Richardson
Secretary of Energy



Alexis M. Herman
Secretary of Labor

Enclosures: Legislation
Section-by-Section Analysis

January 11, 2001

The Honorable J. Dennis Hastert
Speaker of the House
of Representatives
Washington, DC 20515

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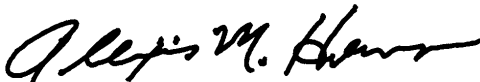
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